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U.S. Department of Homeland Security

Citizenship and Immigration Services

**identifying data deleted to
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ADMINISTRATIVE APPEALS OFFICE

CIS, AAO, 20 MASS, 3/F

425 I Street, N.W.

Washington, D.C. 20536

File:

Office: VERMONT SERVICE CENTER

Date:

SEP 15 2003

IN RE: Petitioner:
Beneficiary:

Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:

PUBLIC COPY


INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of Citizenship and Immigration Services (CIS) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.


Robert P. Wiemann, Director
Administrative Appeals Office

DISCUSSION: The immigrant visa petition was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner is a church, seeking classification of the beneficiary as a special immigrant minister pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), in order to employ him as a local pastor at an annual salary of \$29,000.

The director denied the petition, finding that the petitioner failed to establish that the beneficiary had been continuously carrying on the vocation of a minister for at least the two years preceding the filing of the petition.

On appeal, counsel for the petitioner submits a brief and additional evidence.

Section 203(b)(4) of the Act provides classification to qualified special immigrant religious workers as described in section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C), which pertains to an immigrant who:

- (i) for at least 2 years immediately preceding the time of application for admission, has been a member of a religious denomination having a bona fide nonprofit, religious organization in the United States;

- (ii) seeks to enter the United States--

- (I) solely for the purpose of carrying on the vocation of a minister of that religious denomination,

- (II) before October 1, 2003, in order to work for the organization at the request of the organization in a professional capacity in a religious vocation or occupation, or

- (III) before October 1, 2003, in order to work for the organization (or for a bona fide organization which is affiliated with the religious denomination and is exempt from taxation as an organization described in section 501(c)(3) of the Internal Code of 1986) at the request of the organization in a religious vocation or occupation; and

- (iii) has been carrying on such vocation, professional work, or other work continuously for at least the 2-year period described in clause (i).

The petitioner in this matter, [REDACTED] is a church established in 1920¹ claiming an affiliation with the United Methodist Church. The beneficiary is a 39-year old native and citizen of India who last entered the United States on June 10, 1996, with advance parole.

At issue in this proceeding is whether the petitioner established that the beneficiary was continuously carrying on the vocation of a minister for at least the two years preceding the filing of the petition.

8 C.F.R. § 204.5(m) (1) states, in pertinent part, that:

All three types of religious workers must have been performing the vocation, professional work, or other work continuously (either abroad or in the United States) for at least the two-year period immediately preceding the filing of the petition.

In the case of special immigrant ministers, the alien must have been engaged solely as a minister of the religious denomination for the two-year period in order to qualify for the benefit sought and must intend to be engaged solely in the work of a minister of religion in the United States. *Matter of Faith Assembly Church*, 19 I&N 391 (Comm. 1986).

The petition was filed on April 30, 2001. Therefore, the petitioner must establish that the beneficiary had been continuously and solely carrying on the vocation of a minister of religion since at least April 30, 1999.

The petitioner submitted a letter from a representative of the Zion House of Worship dated April 10, 2001 stating that the beneficiary had been working for the Zion House of Worship as assistant pastor from 1996 to the present. In response to a request for additional evidence, the petitioner resubmitted the letter from the Zion House of Worship and provided CIS with a letter from the Senior Pastor of the petitioning church stating that the beneficiary:

Has been involved in various ministries of [REDACTED] since 1999. His responsibilities have included visiting people when they are sick, praying with parishioners and had house meetings for prayer and speaking with others about faith in Christ. He has worked with youth in youth ministries and has led in Bible studies. He has assisted with the serving of Holy Communion.

The director found that the evidence was insufficient to establish

¹ According to the evidence submitted, the petitioning church was incorporated under the name of the [REDACTED]

that the beneficiary had the two-years requisite qualifying experience.

On appeal, counsel for the petitioner submits an undated letter written by the senior pastor at the Sheetz Memorial Methodist Church of Hyderabad, India, stating that the beneficiary served as the pastor of its church from January 1987 until June 1989.

In review, the evidence is insufficient to establish that the beneficiary was continuously carrying on the vocation of a minister for at least the two years preceding the filing of the petition. The petitioner did not provide a detailed description of the beneficiary's means of financial support in this country. Absent a detailed description of the beneficiary's employment history in the United States, supported by corroborating evidence such as certified tax documents and W-2's, the Bureau is unable to conclude that the beneficiary had been engaged in any particular occupation, religious or otherwise, during the two-year qualifying period.

Beyond the decision of the director, the petitioner has failed to establish that the beneficiary qualifies as a minister of religious for the purpose of special immigrant classification. The petitioner submitted a "certificate of ordination" dated August 30, 1988, issued by the United Baptist Church Ministry. It is noted that the beneficiary was ordained by a denomination other than that of the petitioning church. Since the appeal will be dismissed for the reason discussed above, this issue need not be discussed further.

The burden of proof in these proceedings rests solely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden.

ORDER: The appeal is dismissed.